

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION**

UNITED STATES OF AMERICA	§	
	§	
v.	§	CASE NO. 7:08-cv-174
	§	
0.32 ACRES OF LAND, MORE OR	§	TRACT: RGV-RGC-2009
LESS SITUATED IN STARR COUNTY,	§	
STATE OF TEXAS; AND MIGUEL	§	
GARCIA, JR., ET AL.,	§	

UNITED STATES' RESPONSE TO THE COURT'S ORDER
REQUESTING STATUS UPDATE

COMES NOW the United States of America (hereinafter “United States”), and in response to the District Court’s October 17, 2018 Order to inform the Court on the status of the case:

PROCEDURAL BACKGROUND

On June 21, 2008, the United States filed Civil Action No. 7:08-cv-174, condemning a fee simple interest in 0.32 acres, more or less, in Starr County, Texas—identified as Tract RGV-RGC-2009—for the border fence project. On June 25, 2008, the United States deposited \$3,105.00 into the Court’s registry as its estimated just compensation for Tract RGV-RGV-2009.¹ [Doc. No. 4]. At the time of taking, the United States believed that Miguel Garcia was the owner of Tract RGV-RGC-2009. [Doc. No. 2-2, at 14].

On January 2, 2009, the United States and Miguel Garcia filed their Agreement Concerning Just Compensation and Agreed Motion for Disbursement. [Doc. No. 8; Doc. No. 9]. On January

¹ See 40 U.S.C. § 3114(b) (“On filing the declaration of taking and depositing in the court, to the use of the persons entitled to the compensation, the amount of the estimated compensation stated in the declaration—(1) title to the estate or interest specified in the declaration vests in the Government; (2) the land is condemned and taken for the use of the Government; and (3) the right to just compensation for the land vests in the persons entitled to the compensation.”).

9, 2009, the Court issued an Agreed Order to Disburse Funds in Registry, disbursing the sum of \$3,105.00, plus accrued interest, to Miguel Garcia. [Doc. No. 10].

The United States filed status reports in these cases between 2010 and 2013. On July 21, 2010, the United States filed a status report, stating that the United States and Miguel Garcia had settled the case. [Doc. No. 14]. However, the case remained open pending an Amended Declaration of Taking to clarify the description of the property taken. [*Id.*]. On October 12, 2012, the United States and Miguel Garcia filed a joint status report, explaining that the United States had not yet finalized its title commitment, land survey and fence alignment in order to file the ADT. [Doc. No. 18]. On August 29, 2013, the United States filed a supplemental status report, explaining that it could not yet predict when the Amended Declaration of Taking would be filed due to delays in obtaining the final surveys and title work for Tract RGV-GRC-2016. [Doc. No. 27].

ANTICIPATED NEXT STEPS

The United States plans to take the following steps to resolve this case:

(1) File an Amended Declaration of Taking (“ADT”) and Amended Complaint in Condemnation (“Amended Complaint”) in order to (a) clarify the description and plat of the land acquired based on finalized surveys and title examination results; (b) clarify that the land taken did not include water distribution and drainage systems; and (c) add as defendants any new parties identified as having an interest. As to the third point, the United States has discovered that Miguel Garcia claims the subject property through adverse possession (since the 1940s), but there does appear to exist a record title holder (Romeo and Celestine Perez family) for the subject property. As such, once the ADT and Amended Complaint are filed, the United States anticipates that there may be a title dispute for which the United States plans to assist with any necessary amicus briefing

on the issue of title. Once the issue of title is resolved, the United States will work with the landowners to resolve any outstanding issues to close this case.

(2) The United States advises the Court that, in FY 2019, it expects to acquire additional property from this landowner for the border fence project.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on November 9, 2018, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, and that our office will send a copy of this document on November 9 and 13th, 2018 via regular mail to all parties who have made an appearance and/or for whom the United States has contact information.

s/ Christopher D. Pineda
CHRISTOPHER D. PINEDA
Assistant United States Attorney